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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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9 WARNER BROS. RECORDS INC.;
10 SONY BMG MUSIC ENTERTAINMENT;
11 UMG RECORDINGS, INC.; and
12 ELEKTRA ENTERTAINMENT GROUP INC.

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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 DIVISION

HRL

16 WARNER BROS. RECORDS INC., a Delaware
17 corporation; SONY BMG MUSIC
18 ENTERTAINMENT, a Delaware general
19 partnership; UMG RECORDINGS, INC., a
20 Delaware corporation; and ELEKTRA
21 ENTERTAINMENT GROUP INC., a Delaware
22 corporation,

23 Plaintiffs,

24 v.

25 JOHN DOE,

26 Defendant.

CASE NO.

EV 08 - 3997

EX PARTE APPLICATION FOR LEAVE
TO TAKE IMMEDIATE DISCOVERY

EX PARTE APPLICATION FOR LEAVE TO TAKE IMMEDIATE DISCOVERY

Case No. _____

#39517 v1

ORIGINAL

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26
 2 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum
 3 of Law, hereby apply for an Order permitting Plaintiffs to take immediate discovery.

4 In support thereof, Plaintiffs represent as follows:

5 1. Plaintiffs, record companies who own the copyrights in the most popular sound
 6 recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a
 7 third party Internet Service Provider ("ISP") to determine the true identity of Defendant # 3, who is
 8 being sued for direct copyright infringement.

9 2. As alleged in the complaint, Defendant without authorization, used an online media
 10 distribution system to download Plaintiffs' copyrighted works and/or distribute copyrighted works to
 11 the public. Although Plaintiffs do not know the true name of Defendant, Plaintiffs have identified
 12 Defendant by a unique Internet Protocol ("IP") address assigned to Defendant on the date and time
 13 of Defendant's infringing activity.

14 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that
 15 identify Defendant's true name, current (and permanent) address and telephone number, e-mail
 16 address, and Media Access Control ("MAC") address. Without this information, Plaintiffs cannot
 17 identify Defendant or pursue their lawsuit to protect their copyrighted works from repeated
 18 infringement.

19 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a
 20 Rule 26(f) conference where there are no known defendants with whom to confer.

21 WHEREFORE, Plaintiffs apply for an Order permitting Plaintiffs to conduct the foregoing
 22 requested discovery immediately.

23 Dated: August 21, 2008

HOLME ROBERTS & OWEN LLP

24 By 

25 DAWNIELL ZAVALA

26 Attorney for Plaintiffs

27 WARNER BROS. RECORDS INC.; SONY

28 BMG MUSIC ENTERTAINMENT; UMG

RECORDINGS, INC.; and ELEKTRA

ENTERTAINMENT GROUP INC.